

Application No: 10/731,029
Attorney's Docket No: ALC 3104

In section 8 on pages 3-9, the Office Action rejects claims 1-20 under 35 U.S.C. § 103(a) as allegedly being unpatentable over U.S. Patent No. 6,745,333 to Thomsen. Applicant respectfully traverses this rejection for at least the following reasons.

Claim 1 recites "providing the intrusion detection module with a copy of original data frames transmitted by the wireless node over a wireless interface" (emphasis added). Claims 10 and 17 contain similar recitations.

In section 8 on pages 3, 5, and 6, the Office Action recharacterizes the rejection with respect to this subject matter. In particular, in lines 8-10 on page 4, the Office Action correctly concedes that "Thomsen does not disclose that the information sent is a copy of the packet/frame sent." However, the Office Action argues that "it would have been obvious to one having ordinary skill in the art . . . to store some or all information pertaining a packet/frame sent for later usage to determine whether traffic received is bona fide as long as the information stored helped in making such determination." In supporting this argument, the Office Action cites column 20, lines 15-55, column 21, lines 35-67, column 22, lines 1-22, and claim 1 of Thomsen, alleging that these sections show "comparing other unique features of information sent/received."

Even assuming *arguendo* that these assertions regarding Thomsen are correct, the Office Action nonetheless fails to make a *prima facie* case of obviousness under 35 U.S.C. § 103. To establish *prima facie* obviousness of a claimed invention, all the claim limitations must be taught or suggested by the prior art. *See, e.g., In re Royka*, 490 F.2d 981, 180 USPQ 580 (CCPA 1974). "All words in a claim must be considered in judging the patentability of that claim against the

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prior art." *In re Wilson*, 424 F.2d 1382, 1385, 165 USPQ 494, 496 (CCPA 1970).
"Impermissible hindsight must be avoided and the legal conclusion must be reached on the basis of the facts gleaned from the prior art." MPEP § 2142.

Here, whether Thomsen shows "comparing other unique information sent/received" is irrelevant, as a mere disclosure of comparison of information from a data packet is insufficient to render it obvious to one of ordinary skill in the art to send a copy of original data frames. The Office Action impermissibly relies on hindsight reasoning to infer the obviousness of a claim element that is clearly not disclosed, taught, or suggested by Thomsen.

Claim 1 also recites "comparing at the intrusion detection module the information in the copy with the information in the incoming data frames." Claims 10 and 17 contain similar recitations.

In section 6 on pages 2-3, the Office Action includes a "Response to Amendment" addressing Applicant's previous arguments with respect to this subject matter. In particular, the Office Action relies on claim 1 of Thomsen. Applicant respectfully disagrees with the Office Action's characterization of claim 1 of Thomsen.

Claim 1 of Thomsen recites "comparing said one packet to a record of packets sent by said device" (emphasis added). Applicant stresses that this portion of Thomsen merely indicates that Thomsen compares an incoming packet to a record of packets, not a copy of the packet. Again, as Applicant previously argued, the system of Thomsen determines a discrepancy between MAC addresses, not information contained in data frames. See col. 13, ln. 5-8.

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Thus, Applicant respectfully submits that Thomsen does not disclose, teach, or suggest "comparing at the intrusion detection module the information in the copy with the information in the incoming data frames," as recited in claim 1 and similarly recited in claims 10 and 17.

Accordingly, Applicant respectfully submits that the Office Action has failed to make a *prima facie* case of obviousness under 35 U.S.C. § 103. Applicant respectfully submits that claims 2-9 are allowable based at least on their dependence from claim 1 for the reasons stated above in connection with claim 1. Similarly, claims 11-16 are allowable based at least on their dependence from claim 10. Claims 18-20 are allowable based at least on their dependence from claim 17.

For at least the forgoing reasons, Applicant respectfully requests that the rejection of claims 1-20 under 35 U.S.C. § 103 be withdrawn.

CONCLUSION

In light of the foregoing, withdrawal of the rejections of record and allowance of this application are earnestly solicited.

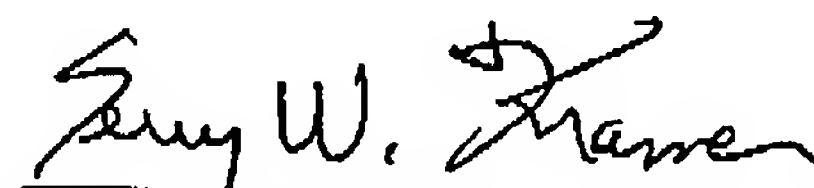
While we believe that the instant amendment places the application in condition for allowance, should the Examiner have any further comments or suggestions, it is respectfully requested that the Examiner contact the correspondence attorney listed below at the telephone number listed below in order to expeditiously resolve any outstanding issues.

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In the event that the fees submitted prove to be insufficient in connection with the filing of this paper, please charge our Deposit Account Number 50-0578 and please credit any excess fees to such Deposit Account.

Respectfully submitted,
KRAMER & AMADO, P.C.

Date: December 4, 2007


Terry W. Kramer
Registration No.: 41,541

KRAMER & AMADO, P.C.
1725 Duke Street, Suite 240
Alexandria, VA 22314
Phone: 703-519-9801
Fax: 703-519-9802